

PATENT

Attorney Docket No.: 42970-7 CII

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Patent application of
Sukanta Banerjee, et al.

Serial No. 10/032,657

Filing Date: October 28, 2001 (before requested correction)
December 28, 2001 (after requested correction)

For: MULTIANALYTE MOLECULAR ANALYSIS
USING APPLICATION-SPECIFIC RANDOM
PARTICLE ARRAYS

:
:
: Group Art Unit:
: 1645
:
: Examiner:
: Not Yet Assigned

FAX RECEIVED

JUN 11 2003

PETITIONS OFFICE

Petition Under 37 CFR §1.53 Requesting Corrected Filing Date

Commissioner for Patents
Alexandria, VA 22313-1450

VIA FACSIMILE:
703-308-6916

Dear Sir:

This is a petition under 37 C.F.R. 1.53 to request a corrected filing date for the above-referenced application. Applicants request correction of the filing date from "October 28, 2001," to the correct date, December 28, 2001.

CERTIFICATE OF FACSIMILE
TRANSMISSION

I hereby certify that this correspondence, along with any paper referred to as being attached or enclosed, is being facsimile transmitted to the U.S. Patent and Trademark Office on the date indicated below.

BY _____

DATE: _____

STATEMENT OF FACTS

1. The present application is a continuation-in-part of International Patent Application No. PCT/US01/20179.
2. The present application was mailed via Express Mail to the USPTO on December 28, 2001.
3. The application transmittal and certificate of mailing under 37 C.F.R. 1.10 were signed by Julie Bowker, a registered patent attorney (copies enclosed).
4. A declaration, executed by the inventors, indicating that the application was filed on December 28, 2001, was submitted to the PTO on May 6, 2002 (copy enclosed).
5. The application was transferred from Ms. Bowker's care to successor counsel, Kenneth H. Sonnenfeld, Esq. Of the firm of Morgan & Finnegan. Responsibility for the application was then transferred to the undersigned at the firm of Drinker Biddle & Reath LLP on January 22, 2003. A copy of Revocation of Prior Powers is enclosed herewith.
6. Applicants' Attorney noticed the discrepancy in filing dates when notice of acceptance of Power of Attorney was received from the PTO on February 15, 2003. The return Express Mail label for the application filing is missing from counsel's file of the application. Despite a diligent search, the Express Mail label was not found.
7. The undersigned has been advised by USPTO Customer Service that the serial numbers immediately before (10/032,656) and immediately after (10/032,658) the present application (10/032,657) correspond to patent applications having filing dates of December 28, 2001.

8. A request for a corrected filing receipt was filed on March 27, 2003. The request included a copy of the transmittal bearing an Express Mail Certificate of Mailing as well as the first page of the above-identified patent application as filed, bearing an Express Mail Certificate reciting a mailing date of December 28, 2001.

9. A Response to Request for Corrected Filing Receipt, refusing correction, was mailed on April 4, 2003.

10. There is no evidence supporting the PTO alleged filing date of "October 28, 2001."

PETITION

Applicants maintain that the filing date of the present application is December 28, 2001. The application transmittal containing a certificate of Express Mail, label no. ET 733483659 US, dated December 28, 2001, was signed by a registered patent attorney. The first page of the application also contained a certificate of mailing dated December 28, 2001 which was also signed by a registered patent attorney.

As further evidence, enclosed herewith is a facsimile from the United States Postal Service indicating that Express Mail item number ET 733483659 US, was delivered to the USPTO on December 31, 2001. December 31, 2001 was the next business day after December 28, 2001. This is consistent with a December 28 mailing date.

Furthermore, the serial numbers immediately before (10/032/656) and immediately after (10/032,658) the present application (10/032,657) correspond to patent applications having filing dates of December 28, 2001, further supporting a filing date of December 28, 2001.

There is no evidence supporting the PTO-alleged filing date of "October 28, 2001." Indeed, all the evidence is consistent with a filing date of December 28, 2001. It is respectfully submitted that the erroneous "October 28, 2001" filing date accorded the application resulted from an incorrect setting of the PTO's stamping-in equipment, resulting in the date "October 28" not December 28, being affixed to the application papers. Correction is respectfully requested.

The Commissioner is hereby authorized to charge the petition fee of \$130 set forth in 37 C.F.R. 1.17(h) deposit account no. 50-0573. That is the only fee believed to be due in connection with this Petition. However, should it be determined that an additional fee is due, please charge any such fee and credit any overcharge to deposit account no. 50-0573.

Should there be any questions regarding this petition, please contact the below named attorney by phone.


Respectfully submitted,

SUKANTA BANERJEE, ET AL.

By: 

DANIEL A. MONACO
Registration No. 30,480
Drinker Biddle & Reath, LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996
(215) 988-3312
(215) 988-2757 - Fax
Attorney for the Applicants

#9

	DRINKER BIDDLE & REATH LLP
	ONE LOGAN SQUARE
	18 TH and Cherry Streets
	PHILADELPHIA, PA 19103-6996
	FACSIMILE NUMBER: (215) 988-2757
	Writer's direct dial and e-mail C. Jackie Williams (215) 988-2852 williacj@dbr.com

F A C S I M I L E**DATE:** 11 June, 2003**FAX RECEIVED**

JUN 11 2003

FAX PHONE NO.: (703) 308-6916**PETITIONS OFFICE****TO:** SUKANTA BANERJEE**FROM:** C. JACKIE WILLIAMS**COMMENTS:****PAGES:** 23

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